

# AFFIDAVIT OF NOTICE

## **OBJECTION to Commission on Water Resource Management (herein "CWRM") proposed action printed under PUBLIC NOTICE in the MAUI NEWS, a Maui newspaper, on Aug 29 and Sept 5, 2012**

OBJECTION is declared by way of this LEGAL NOTICE to Commission on Water Resource Management (herein "CWRM") and Water Use Management Permit (herein "WUMP") applicants in response to Public Notice printed in the MAUI NEWS, a Maui newspaper, on Aug 29 and Sept 5 regarding a process for distribution of water in land area known as Na Wai Eha, Wailuku, Maui submitted by William Aila, Director Dept of Land and Natural Resources, State of Hawaii.

BE IT KNOWN, KULEANA water rights are superior to State of Hawaii and United States law as it pertains to native tenant kuleana rights preserved in Land Commission Award title and Royal Patent.

Based on principles of native tenant rights first described in 1839 Declaration of Rights and embodied in the Constitution of 1840 the term kuleana begins lawful constitutional construct. It was further established following the doctrines of civilized jurisprudence in the Constitution of 1846, L1846 Principles of Quiet Title, 1848 Mahele, 1851 Kuleana Act, amended in 1859 Civil Code and reaffirmed by Hawaii Constitution Article XXII, Sec. 7, HRS 1-1, HRS 7-1, HRS 172-11, 12. Caselaw distinguished native tenant/native hawaiian rights in PASH II, Kalipi vs Hawaiian Trust Co., Pele Defense Fund, Reppun, and many others.

The Land Commission Award, identifies the awardee as the only title owner with native tenant rights, which extends to heirs and assigns enumerated by Law of Descent and certified as having met requirements of claim by Royal Patent, the mechanism distinguishing those rights forever.

Therefore, pursuant to the afore-mentioned laws corporations, non-native tenants listed in CWRM Public Notice are those for whom the lawful definition of native tenant and kuleana, kuleana right is not applicable.

It is also established by law that requests for water usage must not injure nor harm native tenant use along that system and must gain approval of all respective kuleana. The descended kuleana must be consulted for each request of usage desired. This is not exempt from the law.

The State action, through CWRM water use permit, intended to capture native tenants and kuleana rights. By such, native tenants unwittingly relinquish that right and are barred from exercising their inherent right to adjudged the request and make a determination. That right is given to the State.

Fees are levied and received by corporations (County of Maui, Wailuku Water Company, State, certain LLC), non-native tenants for management of Kuleana, native tenant, water provisions. HRS 7-1 states in part, "the people shall also have a right to drinking water, and running water...road ways and water shall be free..." in regards to kuleana.

Conditions prescribed in Warranty Deeds recognize, "Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural,

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religious, access or gathering purposes, as provided for in the Hawaii Constitution and the Hawaii Revised Statutes."

The United States recognized the inalienable rights of the native tenant stating to the nation in Public Law 103-150 "whereas they (the people of Hawaii) did not relinquish their sovereignty over their lands".

However, by applying for permits, exemptions (kuleana tax exemption, homeowners exemption, etc.) native tenants relinquish the very rights the United States Congress determined was still alive and in force. These and other such instruments, promulgated by law, seek to whittle away to the point of obliteration what could not be taken or controlled of our native tenant rights.

By non-disclosure of the potential harm to native tenant rights the State is at very least violating the basic principles of contract law, doctrines of civilized jurisprudence, rules of evidence, discovery, and disclosure.

We give no consent to the laws, rules, policies, procedures promulgated so as to strip the people of their native tenant rights. We choose to exercise this right to review and adjudge those who request water use along any part of the system for which water origins are in Waihe'e, Waiehu, Iao, Waikapu.

Objection to this process for distribution of water is warranted and lawful. Lawful remedy will be pursued as criminal.

Signed,

*[Handwritten signature]* 9/17/12

Kanihoa L. Kamaunu

State of Hawaii  
County of Maui

)  
)SS.

Subscribed and sworn to (or affirmed) before me  
this 17<sup>th</sup> day of September, 2012, by

*[Handwritten signature]* 9/17/12  
Johanna M. Kamaunu

*[Handwritten signature]* Kanihoa L. Kamaunu & Johanna M. Kamaunu.

Johanna M. Kamaunu

*[Handwritten signature]*  
K. Kahananui

Notary Public, State of Hawaii

My Commission Expires: 5-17-13

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Marcial P. Basbas

*[Handwritten initials]*  
9/17/12

*[Handwritten initials]*  
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NOTARY PUBLIC CERTIFICATION  
 K. Kahananui Second Judicial Circuit  
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*[Handwritten signature]* 9-17-12  
 Notary Signature Date

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